

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MARTIN J. ZIELINSKI,
Plaintiff,

v.

Case No. 17-C-471

**WISCONSIN LABOR AND INDUSTRY
REVIEW COMMISSION et al.,**
Defendants.

ORDER

On December 14, 2017, I dismissed this case for failure to state a claim upon which relief can be granted and lack of subject-matter jurisdiction and directed the Clerk of Court to enter final judgment accordingly. Plaintiff moves for relief from the final judgment, primarily citing Federal Rule of Civil Procedure 60(b)(3), which permits such relief on the basis of “fraud . . . , misrepresentation, or misconduct by an opposing party.” Plaintiff argues that this provision applies because one of his claims in this case is that a legal secretary employed by a Wisconsin state agency lied to him about the filing and service requirements for appealing an adverse decision of that agency, which caused him to lose his right to an appeal in state court.¹

Plaintiff misunderstands the scope of Rule 60(b)(3), which provides that a federal court may relieve a party from a judgment if *that judgment* was procured by fraud. See *Germeraad v. Powers*, 826 F.3d 962, 967 (7th Cir. 2016). As the judgment *in this case* was not procured by fraud, misrepresentation, or misconduct by an opposing party, relief from that judgment under Rule 60(b)(3) is not available to plaintiff. Moreover,

¹ I construed this as a claim for deprivation of plaintiff’s constitutional right of access to the courts and dismissed it for failure to state a claim upon which relief can be granted.

having reviewed the record, I see no reason to relieve plaintiff from the final judgment or to reopen this case. Therefore, I will deny plaintiff's motion.

THEREFORE, IT IS ORDERED that plaintiff's motion for relief from the final judgment (Docket No. 24) is **DENIED**.

IT IS FURTHER ORDERED that all other pending motions (Docket Nos. 25, 26, 29, 32, and 37) are **DENIED as moot**.

Dated at Milwaukee, Wisconsin, this 21st day of April, 2018.

s/Lynn Adelman
LYNN ADELMAN
District Judge